

Message Text

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TO AMEMBASSY PRETORIA

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USMISSION USUN NEW YORK

AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: SOCI

SUBJECT: NEW YORK HUMAN RIGHTS COMMISSION DECISION

1. IN OCTOBER 1972 THE AMERICAN COMMITTEE ON AFRICA AND OTHER GROUPS IN CONJUNCTION WITH THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW SOUGHT AN ORDER FROM THE NEW YORK COMMISSION ON HUMAN RIGHTS DIRECTING THE NEW YORK TIMES TO CEASE AND DESIST FROM THE PRACTICE OF PUBLISHING ADVERTISEMENTS FOR EMPLOYMENT POSITIONS IN SOUTH AFRICA. THE ACTION WAS BASED ON THE NEW YORK CITY ADMINISTRATIVE CODE WHICH PROVIDES THAT THE PUBLICATION BY A NEWSPAPER OF EMPLOYMENT ADVERTISEMENTS CONTAINING DIRECT OR INDIRECT LIMITATIONS AS TO RACE OR COLOR CONSTITUTES AN UNLAWFUL DISCRIMINATORY PRACTICE.

2. AFTER LENGTHY PROCEEDINGS, ON JULY 22 THE COMMISSION

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HANDED DOWN A DECISION BARRING THE TIMES FROM RUNNING

CLASSIFIED ADVERTISEMENTS FOR EMPLOYMENT IN SOUTH AFRICA. THE TIMES HAS ANNOUNCED ITS DECISION TO APPEAL AND WILL PURSUE AN EXPEDITED PROCEDURE TO SCRUTINIZE ADMINISTRATIVE DECISIONS. THE APPEAL MUST BE TAKEN WITHIN 30 DAYS, AND THE INITIAL ESTIMATE IS THAT THE FIRST LEVEL OF APPEAL WILL TAKE FROM 2 TO 4 MONTHS. THE TIMES ALSO INTENDS TO REQUEST THIS WEEK A STAY OF THE COMMISSION'S ORDER PENDING APPEAL.

3. F.Y.I. THE THEORY OF THE COMPLAINT WAS THAT BY PUBLISHING SUCH ADVERTISEMENTS THE TIMES AIDED AND ABETTED DISCRIMINATORY EMPLOYMENT PRACTICES IN SOUTH AFRICA. THE TIMES' BASIC DEFENSES WERE THAT THIS WAS A FOREIGN AFFAIRS QUESTION OUTSIDE THE SCOPE OF THE COMMISSION'S JURISDICTION; THAT THIS WAS A RESTRAINT ON THE FIRST AMENDMENT GUARANTEE OF FREEDOM OF THE PRESS; AND THAT THE ADVERTISEMENTS DID NOT DIRECTLY OR INDIRECTLY PROMOTE DISCRIMINATION. END F.Y.I.

4. IN RESPONSE TO ANY INQUIRIES CONCERNING THIS MATTER YOU SHOULD EMPHASIZE THAT THE COMMISSION'S ORDER ONLY APPLIES TO NEW YORK CITY; THAT THE COMMISSION'S ORDER WILL HAVE TO WITHSTAND SEVERAL LEVELS OF JUDICIAL REVIEW, BEGINNING AT THE TRIAL COURT LEVEL; THAT IT WILL BE SOME TIME BEFORE THE JUDICIAL PROCESS HAS RUN ITS COURSE; AND THAT THE USG HAS PLAYED NO PART IN THE LITIGATION SINCE THIS IS A CONTROVERSY BETWEEN TWO PRIVATE PARTIES, IS A QUESTION OF INTERPRETING A MUNICIPAL ORDINANCE, AND WILL BE PURSUED IN THE STATE COURT SYSTEM.

5. WILL POUCH A COPY OF THE COMMISSION'S ORDER AND OPINION. INGERSOLL

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